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8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

10 JEFFREY M COVER,

11 Petitioner,

12 v.

13 JEFFREY UTTECHT,

14 Respondent.

CASE NO. 3:19-CV-05064-BHS-DWC

ORDER GRANTING UNOPPOSED  
MOTION TO STAY

15 The District Court has referred this action to United States Magistrate Judge David W.  
16 Christel. Petitioner Jeffrey M. Cover filed a federal habeas Petition, pursuant to 28 U.S.C. §  
17 2254, seeking relief from a state court conviction. Currently before the Court is Petitioner's  
18 "Motion Requesting Stay and Abeyance of Habeas Petition Pending Resolution of State Court  
19 Proceedings" ("Motion"). Dkt 7.

20 District courts may use a "stay-and-abeyance" procedure while a petitioner exhausts his  
21 claims in state court. *Rhines v. Weber*, 544 U.S. 269, 275-77; *Calderon v. United States District*  
22 *Court (Taylor)*, 134 F.3d 981, 988 (9th Cir.1998). Here, Petitioner contends a stay is proper  
23 because he has a personal restraint petition ("PRP") pending in the state courts and resolution of  
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1 the PRP is necessary to exhaust his federal claims. Dkt. 7. Respondent filed a Response stating  
2 he does not oppose the stay. Dkt. 11. Respondent contends the Petition is a “mixed petition” and  
3 the interests of justice would be best served by the Court staying the Petition and holding it in  
4 abeyance until Petitioner’s PRP is finalized. Dkt. 9, 11.

5 After reviewing the relevant record, the Motion (Dkt. 7) is granted. The case is stayed.  
6 Because Petitioner is incarcerated and proceeding *pro se*, Respondent is directed to file a report  
7 every ninety (90) days informing the Court of the status of Petitioner’s state proceedings. The  
8 first status report is due on or before August 5, 2019 and shall include the state court cause  
9 number. If the state court dismisses or resolves Petitioner’s state court proceedings, Petitioner is  
10 directed to inform the Court and file a motion to lift the stay within 30 days of the state court  
11 taking action.

12 Dated this 6th day of May, 2019.

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15 David W. Christel  
16 United States Magistrate Judge  
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